

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraph 49 has been amended to include reference numeral 170 related to the paint brush.

Claim 8 is requested to be cancelled.

Claims 1, 2, 7, 9, 10, 16, 17 and 20 are currently being amended.

Claims 36-42 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-3, 7, 9-11, 13-23, 25, 26 and 36-42 are now pending in this application.

Election/Restrictions

Applicant acknowledges that claims 4-6 are withdrawn from consideration. The drawings stand objected under 37 CFR Figure 5 has been amended

The drawings stand objected under 37 C.F.R. § 1.83(a). Figure 5 has been amended to show the spout is sized to permit entry of at least a two inch brush into the container. Paragraph 49 of the specification has also been amended to include reference number 170 for the brush. Accordingly it is requested that the objection under 37 C.F.R. § 1.83(a) be removed.

Claim Rejections - 35 USC § 102

Claims 1-2, 7, 20-21 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Barker et al. 4,550,862. It is submitted that Barker et al. does not disclose a handle being pivotally attached to the body at two pivot points defining a pivot line extending through the center of the top of the body as required in independent claim 1. Barker et al. does not disclose an integral handle formed within the body and a second pivotal handle having a center portion removably received within a depression on the top proximate the integral handle as required in claim 20. It is submitted that Barker et al. does not disclose the recited feature in independent claim 1 or the recited feature in independent claim 20 and therefore does not anticipate independent claims 1 and 20. Further, Barker et al. does not disclose, teach, or suggest the recited elements and therefore, claims 1 and 20 are not obvious over Barker et al. Claims 2 and 7 depend from independent claim 1 and is patentable over Barker et al. for at least the reasons stated above-with respect to independent claim 1. Claim 21 depends from claim 20 and is patentable over Barker et al. for at least the reason stated above with respect to claim 20.

Claims 9, 11, and 15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kelsey, 5,269,438. Claim 9 includes a splash guard disposed proximate the spout and being located completely within a periphery defined by the side walls. Kelsey does not disclose this feature and therefore does not anticipate claim 9.

Claims 9, 11, 14-20, 23, and 25-26 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nottingham et al. US 2002/0195471. Nottingham et al. does not disclose each element of the rejected claims and therefore does not anticipate the rejected claims. Specifically, Nottingham et al. does not disclose a splash guard disposed proximate the spout and being located completely within a periphery defined by the side walls as recited in claim 9. Additionally, Nottingham et al. does not disclose a second handle pivotally secured proximate the top and attached to the body along a line perpendicular to a the pouring direction of the spout, and a second handle being attached to the body at pivots spaced from the raised portion as recited in claim 16. Finally, Nottingham et al. does not disclose a second pivotal handle having a center portion removably received within a depression on the

top proximate the integral handle as recited in claim 20. Claims 11, 14-15 depend from claim 9; claims 17-19 depend from claim 16; and claims 23, 25-26 depend from claim 20. These claims are patentably distinct over Nottingham et al. for at least the reasons stated above with respect to the independent claims from which they depend.

Claim Rejections - 35 U.S.C. § 103

Claims 1-3, 7, and 20-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barker et al. 4,550,862 in view of Armstrong 4,927,046. Neither Barker et al. or Armstrong teach, disclose, or suggest the attachment mechanism being offset from the center of the top of the body and a handle being pivotally attached to the body at two pivot points defining a pivot line extending through the center of the top of the body as recited in claim 1. Accordingly, claim 1 is patentable over Barker et al. in view of Armstrong. Claims 2, 3, and 7 depend from claim 1 and are patentable over Barker et al. in view of Armstrong and for the reasons stated with respect to claim 1. Neither Barker et al. nor Armstrong teach, disclose, or suggest an integral handle formed within the body and a second pivotal handle having a center portion removably received within a depression on the top proximate the integral handle as recited in claim 20. Accordingly, claim 20 is patentable over Barker et al. in view of Armstrong. Claim 21 depends from claim 20 and is patentable over Barker et al. in view of Armstrong for the reasons stated with respect to claim 20.

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Barker et al. in view of Armstrong and further in view of Leiter 4,771,501. Since Leiter is not referenced in paragraph 9 but rather Nottingham et al. is relied upon it is assumed that the Examiner meant to reject claim 9 over Barker et al. in view of Armstrong and further in view of Nottingham et al. Claim 8 has been canceled. It is submitted that claim 1 and claim 7 are patentably distinct over Barker et al. in view of Armstrong and further in view of Nottingham et al. Neither Barker et al., Armstrong, nor Nottingham et al. either alone or in combination teach, disclose, or suggest the attachment mechanism being offset from a center of the top of the body and a handle being pivotally attached to the body at two pivot points defining a pivot line extending through the center of the top of the body as recited in claim 1. Accordingly, it

is submitted that claims 1 and 7 are patentable over Barker et al. in view of Armstrong and further in view of Nottingham et al.

Claim 8 was further rejected under 35 U.S.C. § 103(a) as being unpatentable over Barker et al. in view of Nottingham et al. As noted above claim 8 is canceled. Further, claims 1 and 7 are patentable over Barker et al. in view of Nottingham et al. for the same reasons cited above with respect to the rejection under Barker et al. in view of Armstrong and further in view of Nottingham et al.

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey 5,269,438 in view of DeJean 4,911,319. Neither Kelsey nor DeJean suggest, teach, or disclose a splash guard disposed proximate the spout and being located completely with a periphery defined by the side walls as recited in claim 9. Accordingly, it is submitted that claim 9 and claim 10 which depends from claim 9 are patentable over Kelsey in view of DeJean.

Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nottingham et al. in view of Bolton et al. 5,078,289. Claim 13 depends from claim 9. Neither Nottingham et al. nor Bolton et al. either alone or in combination, teach, disclose or suggest the splash guard as recited in claim 9. Claim 13 depends from claim 9 and therefore is patentable over Nottingham et al. in view of Bolton et al.

Finally, claim 22 which was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nottingham et al. in view of DeJean. Claim 22 depends from claim 20. Neither Nottingham et al. nor DeJean teach, disclose, or suggest an integral handle formed within the body and a second pivotal handle having a center portion removably received within a depression on the top proximate the integral handle as recited in claim 20. Accordingly, claim 22 is depend from claim 20 is patentable over Nottingham et al. in view of DeJean.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 9/14/03

By KDL

FOLEY & LARDNER
Customer Number: 26371
Telephone: (414) 297-5772
Facsimile: (414) 297-4900

Keith D. Lindenbaum
Attorney for Applicant
Registration No. 40,365

Attachments



App. No. 10/006,985
Amendment Dated September 12, 2003
Reply to Office Action of June 12, 2003
Annotated Sheet Showing Changes

FIG. 5

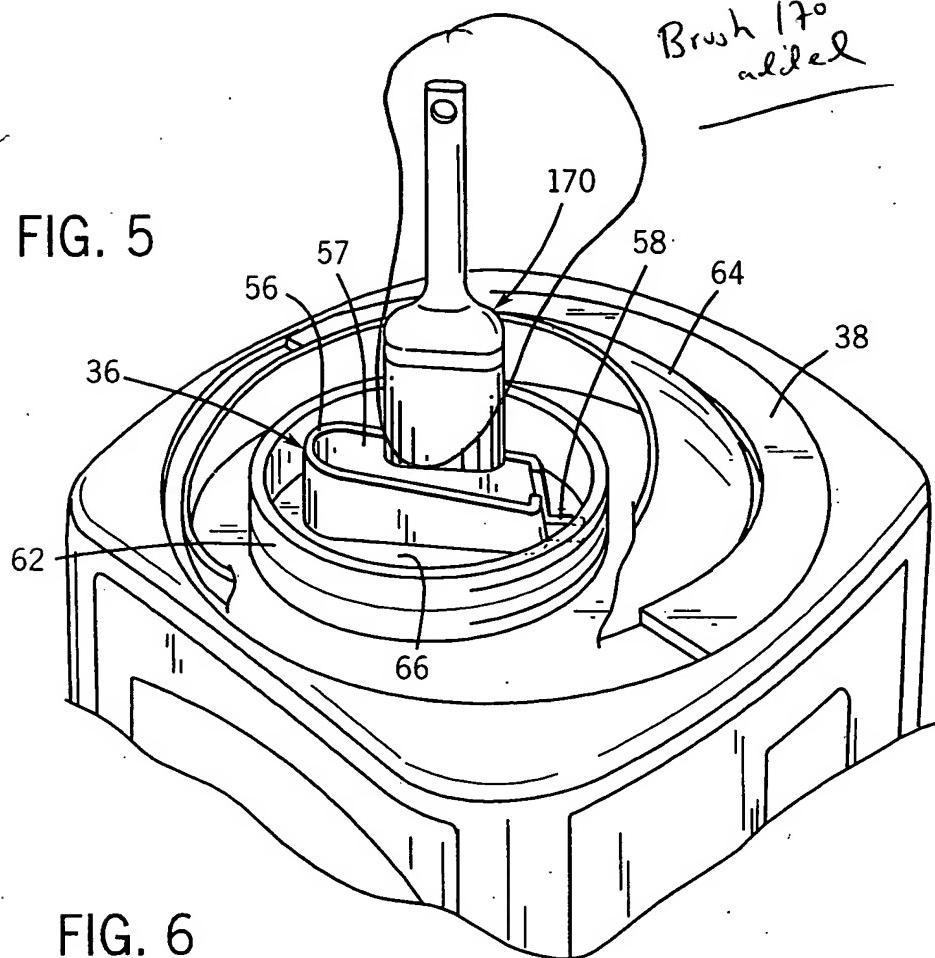


FIG. 6

